

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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C.A. No. 13-10822

PAULA F. SOTO,	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
CITY OF CAMBRIDGE,	)	
	)	
Defendant.	)	
	)	

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**JOINT STATEMENT**

Plaintiff Paula F. Soto and Defendant City of Cambridge, through counsel, respectfully submit this Joint Statement pursuant to Local Rule 16.1.

**I. CONSENT TO SERVICE BY ELECTRONIC MEANS**

The parties agree that all documents required to be served shall be served by electronic mail on the following people:

**For Ms. Soto:**

Richard A. Johnston (Richard.Johnston@wilmerhale.com)  
Kevin S. Prussia (Kevin.Prussia@wilmerhale.com)  
Thaila K. Sundaresan (Thaila.Sundaresan@wilmerhale.com)  
Julia M. Ong (Julia.Ong@wilmerhale.com)  
Matthew R. Segal (msegal@aclum.org)

**For City of Cambridge:**

Amy L. Witts (awitts@cambridge.gov)

**II. SUBJECTS ON WHICH DISCOVERY MAY BE NEEDED**

The parties agree that the subjects on which discovery may be needed include, but are not limited to, the following:

- The City's enforcement policy regarding its ordinance.

- The City's claimed substantial interest is in enforcing its ordinance.
- Any evidence of cause and effect relationship between the placement, posting and/or attachment of leaflets on parked automobiles and the City's claimed substantial interest.
- Comparable alternatives to the placement, posting and/or attachment of leaflets on parked automobiles.
- Whether the placement, posting and/or attachment of leaflets on parked automobiles constitutes speech.
- Whether the leaflets themselves constitute commercial speech.
- Information about the funding and formation of the UpandOUT organization and its parent organization Rule 19.org.
- Complaints received by Ms. Soto relating to the placement, posting and/or attachment of leaflets on parked automobiles.

The parties agree that the subjects on which discovery may be needed may alter as discovery proceeds in the case.

### **III. PHASING OF DISCOVERY**

The parties agree that fact and expert discovery should be phased, as indicated below.

### **IV. SCHEDULING**

The parties agree to the following pretrial schedule:

<b>PRETRIAL SCHEDULE</b>	
<b>Event</b>	<b>Date</b>
Complaint Filed	<b>April 10, 2013</b> (Wednesday)
Rule 26(a) Initial Disclosures	<b>April 14, 2014</b> (Monday)
Substantial Completion of Document	<b>August 4, 2014</b> (Monday)

Production	
Amendment of Pleadings and Joinder of Parties	<b>September 29, 2014</b> (Monday)
Close of Fact Discovery	<b>October 13, 2014</b> (Monday)
Opening Expert Reports (for each party who has the initial burden of proof on a subject matter)	<b>November 25, 2014</b> (Tuesday)
Rebuttal Expert Reports	<b>January 13, 2015</b> (Tuesday)
Close of Expert Discovery	<b>February 16, 2015</b> (Monday)
Summary Judgment Motions	<b>April 30, 2015</b> (Thursday)
Responses to Summary Judgment Motions	<b>May 28, 2015</b> (Thursday)
Replies to Summary Judgment Motions	<b>June 15, 2015</b> Monday
Settlement Conference	<b>August 13, 2015</b> (Thursday)
Daubert Motions	<b>September 1, 2015</b> (Tuesday)
Responses to Daubert Motions	<b>October 1, 2015</b> (Thursday)
Replies to Daubert Motions	<b>October 15, 2015</b> (Thursday)
Final Pretrial Conference	<b>November 2, 2015</b> (Monday)
Trial	<b>December 2015</b>

## V. LIMITS ON FACT DISCOVERY

The presumptive discovery limits set forth in Local Rule 26.1(c) shall apply. The parties agree to the following additional discovery limits:

<u>Discovery Item</u>	<u>Agreement</u>
Interrogatories	Plaintiff and Defendant may each serve a total of twenty-five (25) interrogatories.
Requests for Admissions	Plaintiff and Defendant may each serve up to fifty (50) requests for admissions, excluding requests for admission relating to authentication of documents, which shall be served in time to be completed prior to the close of fact discovery.
Deposition of Fact Witnesses	Plaintiff and Defendant may each take a maximum of seventy (70) hours of deposition testimony of up to ten

	(10) party and non-party fact witnesses, including no more than ten (10) hours for deposition testimony noticed under Fed. R. Civ. P. 30(b)(6). Unless otherwise agreed to by the parties, no deposition shall exceed seven (7) hours in a single day.
Deposition of Expert Witnesses	Each deposition of an expert witness shall be limited to seven (7) hours.

## **VI. FORM OF DOCUMENT PRODUCTION**

The parties agree that all documents (whether or not they are stored electronically) shall be produced electronically (*e.g.*, on compact discs, DVDs, or hard drives) in imaged files (*e.g.*, TIFFs or PDFs), with load files in mutually agreeable formats, compatible with the receiving party's document management system to the extent feasible by the producing party.

## **VII. PRIVILEGE LOGS**

The parties will confer on the nature and scope of privilege logs for the case, including whether any categories of information may be excluded from any logging requirements and whether alternatives to document-by-document logs can be exchanged. With respect to information generated after the filing of the complaint, the parties are not required to include any such information in privilege logs. Activities undertaken in compliance with the duty to preserve information are protected from disclosure and discovery under Fed. R. Civ. P. 26(b)(3)(A) and (B).

## **VIII. EXPERTS**

### **A. Expert Reports**

In accordance with the schedule indicated above, the parties agree to submit a written report containing the information described in Rule 26(a)(2)(B)(i)-(iv) for any witness that may be used at trial to present evidence under Federal Rule of Evidence 702, 703 or 705.

**B. Discoverability of Expert Witness Communications or Work Product**

Discovery of information between counsel and any independent expert witness or consultant retained or specifically employed by that counsel shall be limited to the expert witness's report and any factual information, analyses, documents, and data considered or relied on by the expert witness in rendering the opinions expressed in the expert witness report or at trial. Except as otherwise provided herein, all other communications among experts and between experts and counsel for this case shall not be subject to discovery or inquiry at trial. For example, notes, draft, draft expert reports, or other preliminary work performed by or for any expert in connection with this litigation will not be subject to discovery or inquiry at trial.

**IX. CONSENT TO TRIAL BY MAGISTRATE JUDGE.**

The parties consent to a trial presided over by a Magistrate Judge.

**X. AGENDA FOR MATTERS TO BE DISCUSSED AT SCHEDULING CONFERENCE**

Pursuant to Local Rule 16(B)(1), the parties agree to the following agenda for discussion at the scheduling conference:

- Review of the parties' Joint Statement; and,
- Settlement.

*Respectfully submitted,*

March 26, 2014

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/s/ Julia M. Ong

Richard A. Johnston (BBO# 253420)  
Kevin S. Prussia (BBO# 666813)  
Thaila K. Sundaresan (BBO# 683616)  
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/s/ Amy L. Witts

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*Attorneys for Plaintiff Paula F. Soto*

IT IS SO ORDERED.

Dated: \_\_\_\_\_, 2014

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Mark L. Wolf  
United States District Judge

**CERTIFICATE OF SERVICE**

I, Julia M. Ong , hereby certify that this document, filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this 26<sup>th</sup> day of March, 2014.

/s/ Julia M. Ong  
Julia M. Ong ((BBO# 658014)